

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 11-11019-JGD

GREGORY T. BROWN

Plaintiff

v.

ESSEX COUNTY, et al.

Defendants

DEFENDANTS' TRIAL BRIEF

Pursuant to the Court's Order of January 17, 2013 setting this matter for trial, Defendants hereby submit their trial brief.

I. MOTIONS IN LIMINE

Please refer to the separate Motions in Limine filed coterminously with this trial brief.

II. STATEMENT OF CLAIMS AND DEFENSES TO BE READ TO THE JURY

This is an action brought by the Plaintiff, Gregory T. Brown, Jr., pursuant to 42 USC Section 1983 for events that transpired on or about March 24, 2010 when Brown alleges that his cellmate, Nathaniel A. Kargbo, viciously attacked him while both were incarcerated at the Essex County Correctional Facility. Specifically, the Plaintiff alleges two counts of action pursuant to 42 USC Section 1983 for deliberate indifference against Defendants Correction Officers Waterman, Clarke and Correia (First Cause of Action), and against Sheriff Frank G. Cousins, Jr. and Superintendent Michael Marks of Essex County (Second Cause of Action) for cruel and unusual punishment, alleging that the Defendants wrongfully placed Plaintiff in the cell with Kargbo.

In addition, there is a count for negligence pursuant to M.G.L. c. 258 against the Essex

County individual Defendants and the Commonwealth of Massachusetts (Third Cause of Action).

Defendants deny all claims, and state that Plaintiff never said he felt threatened by the Plaintiff nor wanted to be moved from his cell because of the Plaintiff.

Finally, there is a count for assault and battery against the alleged assailant, Nathaniel Kargbo (Fourth Cause of Action).

III. JURY INSTRUCTIONS

Please see the jury instructions filed coterminously with this trial brief.

IV. SPECIAL VERDICT FORM

Defendants will file this separately.

Defendants,
By their Attorney,

/s/Stephen C. Pfaff

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CERTIFICATE OF SERVICE

I, Stephen C. Pfaff, hereby certify that on the 16th day of July, 2013, I served the foregoing electronically to the following:

John R. Bitá III, Of Counsel
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/s/Stephen C. Pfaff

Stephen C. Pfaff